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ABSTRACT

The relationship between a school principal and the student, and the functions and responsibilities of each, are being controlled and dictated by the continuing involvement of the courts. Many complex and confusing legal questions have arisen because of this judicial intervention. Issues discussed include school violence and vandalism, student rights, due process, and the distinction between substantive due process and procedural due process. Guidelines are offered administrators in the form of a handbook and a compilation of ideas to help deal with a variety of school problems, with the legislature, and with community apathy. (Authoc/MLF)

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SPEECH BEFORE
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"THE PRINCIPAL, THE STUDENT, AND THE
LAW, A PROSECUTING ATTORNEY'S VIEW"

by L. Brooks Patterson*

It's truly a pleasure to be invited to participate in
this 60th Annual Convention of the National Association of
Secondary School Principals.

To start off the session, let me read to you one brief
statement and see if you can identify who said it:

The children now love luxury. They have bad
manners, contempt for authority. They show
disrespect for their elders, and love chatter
in place of exercise.

They no longer rise when elders enter the room.

They contradict their parents, chatter before
company, gobble up dainties at the table, cross
their legs and tyrannize their teachers.

I bet you all think that is a statement made by Owen
Kiernan. Actually, the statement is attributed to Socrates
around the year 390 B. C.

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If Socrates were alive today, and walked into some of our nation's schools, he would take one look around and quaff another dose of hemlock.

Let's carry the Socrates theme a bit further. What would be some of the initial observations of Socrates if he were to reappear in some of our nation's schools today?

1. He'd be perplexed by the ongoing tug-of-war between the development of students rights and the consequent erosion of the administrator's authority.
2. He would be stunned by the degree of federal control exercised by an ever increasing flow of court decisions which unfortunately threaten to forever embroil school administrators in a legal quagmire.
3. He would suffer further consternation attempting to get into one of the lavatories because he doesn't smoke.
4. And certainly last but not least, Socrates would truly be puzzled that a Prosecuting Attorney - the chief law

enforcement officer of a county - would be invited to participate in essentially a conference of educators.

Let's talk about that last point: why is it necessary, in 1976, at a concurrent session such as we have here, to set aside over an hour for a Prosecuting Attorney to express his views?

The answer is as unfortunate as it is simple: more and more the relationship between a school principal and the student, and the functions and responsibilities of each, are being controlled and dictated by the continuing involvement of the courts.

It's this very critical issue that I would like to develop with you today: namely, the gradual court takeover of the educational system in America and the many complex and confusing legal questions which have arisen because of this unfortunate judicial intervention.

The school principal, the student and the law is the web that I've been assigned to untangle today.

Since the days of Brown vs. Board of Education, 347 U.S. 483 (1954), the Supreme Court of the United States, and lesser federal courts and state courts, have had apparent difficulty in distinguishing their judicial robes from your cap and gown.

Prior to Brown vs. Board of Education (the case that must be considered a landmark decision in your field), we might nostalgically refer to education in those days as the "good ol' days".

[The good ol' days has been defined as those days when a student went to the principal's office, it was the student who was in trouble!]

The Brown case is as good a landmark as any in time to pinpoint when the delicate balance between the administrators' traditional rights and responsibilities and the rights of students in general began to shift.

Let me go to the blackboard.

[Whereupon the speaker inscribed upon the blackboard:

Education - a privilege pre-1954]

It was at this point in time the highest court in our land said in essence: attending public schools in the United States no longer is considered a privilege of our youth but a right of our youth.

The Court said in Brown, and I quote:

In these days, it is doubtful that any child may reasonable be expected to succeed in life who is denied the opportunity of an education. Such an opportunity, where the state had undertaken to provide it, is a right which must be made available to all on equal terms.

When this bombshell was dropped, it set off a ripple in education which today is a tidal wave that virtually threatens the very existence of our education system.

The first shoe had fallen and the historical balance between administrators and students was in jeopardy.

If you were to ask the Court today why they seem to favor the expansion of students' rights while restricting and constantly chipping away at the administrator's authority,

the Court would protest and say it is still striking a balance.

If continued attendance at school was a privilege, then the morass of litigation during the 60's and 70's would be nonexistent. Hair length could be dictated, arm bands forbidden, school newspapers censored, demonstrations controlled, and the authority of a principal to run his school with an iron hand virtually unchallenged.

[Whereupon the speaker inscribed upon the blackboard:

EDUCATION - A RIGHT BROWN VS. BOARD OF EDUCATION (1954)]

And here in 1954, when the shoe dropped, it's ironic that it was not an abuse of power by principals that brought about this revolutionary decision in Brown vs. Board of Education, but rather, as we all know, it was an attack against the policies of a state on an entirely separate subject: the question of separate but equal schools.

And as the United States Supreme Court attempted to remedy this situation and alter the separate but equal doctrine, they may very well have thrown out the baby with the wash.

For if we go to the board again, you'll see what flowed naturally from Brown.

[Whereupon the speaker inscribed upon the blackboard:

RIGHTS]

Evolving from Brown is a word that has been burned in your minds, in your hearts and in your student code of conduct - the word RIGHTS.

There is an important legal principle in the Constitution of the United States which tremendously affects you in your profession and can be traced all the way back to the Magna Carta.

I refer to a clause in the 5th Amendment of the Bill of Rights that states:

...nor shall any person be ... deprived of life,
liberty, or property without due process of law...

And later in the 14th Amendment, the requirements of
Due Process appears again in the language:

No state shall make or enforce any law which shall
abridge the privilege or immunities of citizens
of the United States; nor shall any state deprive
any person of life, liberty or property, without
due process of law;...

And if education is a right - a valid, enforceable
property right - as spelled out in Brown vs. Board of
Education, and if Rights are protected under the 5th and
14th Amendments of our United States Constitution, then you
can see what is the next logical progression:

[Whereupon the speaker inscribed upon the blackboard:

DUE PROCESS]

And that brings us to today with the United States
Supreme Court and federal courts and our state courts
defining and redefining what is meant by Due Process under
the law.

What is due process when you attempt to limit a student's right to wear an arm band in school? What is due process with regard to a student wearing his hair as he chooses despite regulations? What is due process when you punish a student who won't stand for the National Anthem? Etc., etc., etc.

The Due Process Clause of the 14th Amendment, as interpreted by the courts, makes state officials out of school officials and applies the due process restriction to school officials in the performance of their duties.

So when the 14th Amendment says "...nor shall any state deprive any person of life, liberty or property without due process of law", really the Constitution of the United States is saying to you as a principal or a superintendent or a teacher "you may not deprive a student of his liberty or property rights without due process of law."

When a student is given a grade, required to stay after class, denied the right to ride a school bus, forbidden to distribute literature at school, subjected to the search of his locker, suspended or expelled from the remainder of the school term, told to take off his arm band, cut his hair or change his clothes - in effect, the State is taking action against that student and the demands of due process must be met.

Due process simply means that one who has rights, and that now clearly includes students, is entitled to have those rights protected by fair play, characterized as "fundamental fairness" or "fair treatment."

For sure, due process would not have been a problem - it would not be a problem today - if education remained a privilege rather than being declared a right.

[That's just like saying the Hindenberg would have had a good flight if it weren't for the landing.]

But the fact is that education is a RIGHT, declared so by the United States Supreme Court, and YOU all must act accordingly. And if you do your best to follow the dictates of the highest court of our land, you unfortunately become embroiled in the distinction between substantive due process and procedural due process.

[Whereupon the speaker inscribed upon the blackboard:

PROCEDURAL

SUBSTANTIVE]

These two principles I feel are very easy to understand. Procedural due process is very simply the procedure or the method that we utilize to control a given subject matter. It's the means by which we implement or enforce a particular regulation.

For example, what procedure will we utilize if we expel somebody from school for violation of a regulation? What is the procedure that we utilize when we suspend a student for a short term or a long term period? The particular safeguards we build in to guarantee a fair procedure is called procedural due process.

Restated, procedural due process is the fundamental, fair method instituted to determine guilt or innocence of the infringer.

Secondly, we talk about substantive due process. It is, I believe, an equally simple concept. Substantive due process is nothing more than the subject matter of a regulation. What is the substance of what we are trying to regulate? Is it hair length, is it a dress code, is it arm bands? We are really dealing with the subject matter that a school principal, school administrator or school board is attempting to control or regulate in some fashion.

For over a decade, there's been considerable attention to the fact that a student is not really a babe in arms, but under our Constitution he is a citizen. We first saw this development in the landmark case In Re Gault, 387 US 1 (1967) and subsequently more fully developed in such cases as Tinker vs. Des Moines, 393 US 503 (1969).

In Tinker, the federal courts did more than just tinker with the system. [I've been waiting two months to get that line in.] Let me quote Tinker:

School officials do not possess absolute authority over their students. Students in school, as well as out of school, are persons under our Constitution. They are possessed of fundamental rights which the state must respect...

Taking it one step further, if a student is a person or a citizen, as obviously he has been declared to be, then he is entitled to the rights of a citizen, which includes due process. And when we talk about procedural due process, we therefore are talking about the safeguards to insure that his citizens' rights are protected.

A general rule of thumb would be this: The greater the interference with a student's rights, the more formal must be the procedure used.

Therefore, in keeping with this rule of thumb we could say: the more serious the disciplinary action contemplated, the more complex must be the procedural due process safeguards.

What constitutes due process under a given set of circumstances must depend upon the nature of the proceeding involved and the rights that may possibly be affected by that proceeding.

A perfect illustration of which I speak is the most recent Goss vs. Lopez case. [415 US 565 (1975)]

As required by Goss, the procedure to suspend a student for less than 10 days is less involved, less complex, less restrictive upon the school administrator than it would be if you were going to suspend a student for more than 10 days.

If it's a suspension of less than 10 days you simply must give the student:

A. A notice of the charges against him, and if he denies them;

B. An explanation of the evidence the authorities have; and

C. Finally, an opportunity to present his side of the story.

But if the suspension is to be longer than 10 days, you must be more careful to see that procedural due process (which really is fundamental fairness) is insured by means of a more formal procedure, such as a student's being entitled to present his own witnesses or even to be represented by an attorney.

As I said earlier, substantive due process involves no more than the subject matter or the substance of a particular regulation.

In the good ol' days, students had the burden of showing that a rule was unreasonable, but since the educational

explosion in the 60's, the burden is now shifted to school administrators to show some reason for the rule's existence, and also show the rule has a reasonable relationship to the educational process.

To further illustrate substantive due process, let me subdivide it further into two major components:

(Whereupon the speaker inscribed upon the blackboard:

A. Constitutional or fundamental rights.

B. Non-basic rights.]

I think this division may be helpful. We can look at substantive rights in two general ways. Is the substantive right that we're going to attempt to regulate a basic constitutional, fundamental right guaranteed by the Constitution? Or is it a lesser important, non-basic right not contemplated by the Constitution?

Once you are able to answer that question, whether it's A or B, then you will know just how far you can go and at what speed you can go.

A. Constitutional or fundamental right: If the school rule promulgated involves one of these Constitutionally protected interests, such as freedom of speech or the freedom from being subjected to an unreasonable search and seizure - if the rule involves one of these types of Constitutionally protected interests - THE SCHOOL WILL BE REQUIRED TO HAVE A HIGHER DEGREE OF JUSTIFICATION FOR THE RULE THAN IT WOULD IF IT WAS A NON-BASIC RIGHT.

B. If it is a non-basic right, not guaranteed by the Constitution, such as the regulation to determine hair length or a dress code for instance, the school official need only demonstrate that there is a reasonable relationship between its rule and the educational function in order for the school to prevail.

In other words, the schools can regulate and control non-basic, non-fundamental rights of a student if the

rule is for a valid school purpose such as regulating hair length for the health or safety of the student involved.

Let me summarize this important area: Can a school pass a regulation? Answer: Obviously, yes. Can the school pass a regulation that infringes possibly upon a non-basic or non-fundamental right of a student? The answer again is yes, and the school in this regard must only show that there is a valid school purpose involved.

Can the school pass a regulation that infringes possibly upon the constitutional or fundamental right of a student? Again the answer is yes, but the school will be required to demonstrate a higher degree of justification for the rule.

Unless the school is attempting to curtail some constitutional, fundamental interests of the student, the courts are generally persuaded the school should prevail.

One final point: you may be asking yourself "when does such justification exist for you, as a principal, to curtail or interfere with a constitutional or fundamental right of a student?" The answer is that you, as public school authorities, can limit such a basic, constitutional right when the student's exercise of that right, such as freedom of speech, materially and substantially interrupts the operation of the school. This is referred to as the Disruption Test, and is often used to determine the substantive rights of students.

It certainly goes without saying that a principal has more than enough justification to promulgate a rule that might indeed interfere with a constitutional, fundamental right of a student where the principal can demonstrate the need for the regulation on the basis of health, safety or welfare of the students.

An interesting question arises here: if the school can indeed curtail a fundamental right of a student, such as freedom of speech, especially when the exercise of that freedom of speech by that student might cause a substantial interruption in the operation of the school and/or endanger the safety of other students, why then was the Des Moines School District unsuccessful in stopping Tinker and friends from wearing black arm bands?

Answer: A failure on the part of the school administrator to properly articulate what the disruption was ... a failure to articulate how the health, safety and welfare of the students was placed in jeopardy.

Remember - if an administrator cannot articulate his basis for relating a rule to the educational process, the rule will be stricken down.

That's what's happened in the past, how we got where we are today.

Last year the second shoe fell with the Goss case, and by its ruling in that case the United States Supreme Court got off the Bench - not too far from here - walked down the street and into your schools, and as the minority opinion said:

Opened the avenue for judicial intervention into the operation of our public schools - and such intervention can only adversely affect the quality of education.

The Minority Court said in Goss that for the first time federal courts, rather than you as educational officials, have the authority to determine the rules applicable to routine classroom discipline of all children in the public school.

It was called by the minority - and I agree -

An unprecedented intrusion into elementary and secondary education.

What happened to you as administrators this decade happened to Prosecutors in law enforcement a decade before.

If the 70's are going to be remembered for ascendancy of student rights, then certainly the 60's will be called the decade of defendants' rights. We in law enforcement found our traditional role and methods challenged at every turn. Like you today, the courts dealt us blow upon blow and left us hardly able to carry out the mission assigned to the law enforcement community.

As a Prosecutor, I am truly concerned with the frightening dimension of violence in our society as well as in our schools. And I am equally concerned that you are not hamstrung by court decisions in your efforts to curb violence in your schools as law enforcement has been in its efforts to control violence in the street.

It's more than mere coincidence that a Court decision like Goss, and the very sad litany of decisions that preceded it, reached our schools at about the same time we began to experience unprecedented disruption and violence in those very same schools.

In my State of Michigan alone - in the state, not the schools necessarily, murder has increased 219% since 1960,

... rape has increased by 276%,

... robbery armed shot up a whopping 448%; and

... aggravated assaults up 253%.

I am further alarmed when I read that 51% of all arrests for property crimes in 1973 nationally were by juveniles, and 23% of arrests for violent crimes were juveniles. And arrests by juveniles under the age of 18 since 1960 have risen 144%. The FBI says more crimes are committed by juveniles under the age of 15 than adults over the age of 25.

What further concerns me, and obviously concerns you, is the fact that this crime wave afflicting our youth has in fact carried over from the streets and into our schools.

No one should have been shocked, least of all Senator Birch Bahy, that school related homicides increased between 1970 and 1973 by 18.5%;

... and the rapes increased 36.7%,

... and the robberies increased 40.1%,

... and the assaults on students increased 85.3%,

... and assaults on teachers increased by 77%,

... and the burglaries of school buildings increased 11.8%,

... and the drug and alcohol offenses on school property increased by 375%,

... and drop outs increased 11.7%,

... and the number of weapons confiscated by

school authorities increased 54.5%,

... and the vandalism cost us nearly 600 million

dollars per year, more than we spend on text

books nationally each year.

If these statistics are the trends of this decade, then I say how in the world can a student be expected to learn in an atmosphere of such violence and fear? If these statistics are the trends of this decade, then how in the world can you as dedicated, responsible school administrators reverse that trend, resume control of your schools and provide a good and decent environment where a child can truly be educated?

Despite these statistics I would like to say before going on further - that there is some room for optimism; that we can overcome the court decisions, the trends of violence, the fuzzy thinking of some of our legislators and get back to the traditional role of educating the students in a proper setting.

[Of course when I'm talking about optimism, I'm reminded of the guy who fell out of a 20 story window. As he passed the 10th floor, somebody heard him say "everything's all right so far."]

If I didn't think that we - I say we together - couldn't reverse the trends, I wouldn't have developed this Handbook.

(A Prosecutor's Handbook for School Administrators.)

I'm not going to say that this single publication is the answer to all your worries - I am saying it is an effort by me and that of my staff to do our part and hopefully provide some of the answers for you as you mount a counter-offensive to reverse these trends we just reviewed.

This Handbook is entitled: A Prosecutor's Handbook for School Administrators. Let me tell you a little bit about it: And the only reason I take a couple of minutes to talk about it is not so much that I want to brag about what I've done back in Michigan, but to give you some awareness

of this particular publication from my office in the hopes that you will find it meritorious enough, to go back to your local District Attorney or Prosecutor and ask him to develop a similar such handbook.

[Whereupon the speaker engaged in an extemporaneous discussion of the Handbook. For purposes of Convention Reporter, see Table of Contents, Appendix.]

I've brought a dozen copies of this book with me and will leave them up here on the table in case you're interested in looking at this Handbook more closely. If you feel it could be of assistance to you, and that you would like something tangible to show to your local District Attorney or Prosecuting Attorney, I would be more than happy to send you a copy from the Print Shop at the County. The cost is nominal, exactly what we pay for them, \$4 each. You are free to order as many as you like, but I would like all orders in by the end of March, 1976.

- CONCLUSION -

Let me conclude my formal remarks with a list of observations and/or suggestions that I have heard about or read about or have instituted in Oakland County through my office. These suggestions are really a compilation of ideas that you may wish to consider in your efforts to deal with a variety of problems in your schools, with the legislature, and with community apathy.

Some of these ideas I'm sure you are well aware of, some of them you may have instituted long before I took to this podium, in fact some of these ideas you may have rejected as not feasible under the idiosyncrasies of your particular school.

Nonetheless, I have a certain belief about Conferences when I attend one myself. I feel if I can walk away with only one good, fresh, new idea and take that idea back home with me, then the Conference was well worth the time and expense. I hope I can present you with such an idea.

I have divided these conference ideas into several categories:

Category 1: General Programs

Category 2: How to deal with the Legislature

Category 3: A brief comment in dealing with the Courts; and

Category 4: Considerations in dealing with a major problem that you all face: vandalism, theft and disruption within the school.

And within that particular category, I have broken that down into three subsections:

- From the community viewpoint
- From the school's viewpoint, and
- From the student body's viewpoint

Going back to Category I, General Programs that I feel have merit, and hopefully you will consider, are as follows:

First, a Youth Assistance Program. Such a program is essentially a volunteer discipline and neglect-prevention program. It is an intermediate step between exhausting the

school disciplinary procedures and injecting the student or child into the Juvenile Court procedures. In essence, it is a diversionary program sponsored by local districts, local municipalities and the Probate Court. We in Oakland County have a successful Youth Assistance Program which may be a model for such programs in the nation. You can get details by writing:

Youth Assistance Program
Oakland County Court House
1200 N. Telegraph
Pontiac, Michigan 48053

Second, the formulation of a School-Police Liason Officer. Such a program involves the assignment of a school-police liason officer designated by the local police department to work within the local schools. This provides you in the schools with a trained police officer, familiar not only with the particular problems of our schools but also possessing the expertise of law enforcement.

Third, the formulation of a School-Court Liason

Designate. Such a person is selected to develop a rapport between the school and the Probate Court (Juvenile Division). It provides the school with an employee intimately familiar with the Juvenile Court system as well as the juvenile court personnel. The advantages of such a position are obvious.

Fourth, Local Ordinances. A quick source - an often overlooked source - of legislative relief very close to home is the implementation of a local ordinance. Such ordinances can cover most situations, be it school parking problems, intruders into the school, disorderly persons, etc. A local ordinance can be passed to cover these situations, and as you might expect, is much more easily enacted than a statewide law.

Fifth, schools should definitely pursue an intensive recovery program for acts of vandalism against the school or school property. Such an intensive recovery effort through

recourse to civil law suits, as provided by law, would not only be a deterrent but an eye opener to the parents and the members of the community.

Many states, including my State of Michigan, have laws that make parents responsible for the acts of juvenile vandalism, and such laws should be aggressively pursued if they exist. And if they do not exist, you should take the idea back to your state legislators and make parents responsible for the deliberate acts of vandalism caused by their children.

Sixth, an area not to be overlooked, is the constant vigilance required of school personnel with regard to ever-increasing violence on TV. The studies continue to mount supporting a correlation between TV violence and subsequent anti-social behavior by our youth. An awareness of this phenomenon and a definite program to combat TV violence by all of us is certainly in order.

II Now for the second category: Dealing with the Legislature

or with individual legislators is obviously a critical area for school administrators and school principals.

If there was ever a reason for you to set up an active and viable organization of principals, your state legislature would be reason enough.

I often hear it said that no man's job, liberty or property is safe while the legislature is in session.

Certainly you understand that your state legislature and the Federal Congress daily make decisions that affect not only your financial resources but actually affect the day-to-day operation of the school, including curriculum. How do you deal with the legislature?

First of all: communication is the key process. You've got to develop lines of communication between you and your legislators. Do this through a well organized, active organization of principals. Here at the national level, dealing with the Federal Congress, you have such an organization

in the National Association of Secondary School Principals. Many state groups would do well to model themselves after this organization.

But again, let me stress please, how important it is that there exist a very active association at the state level. There simply is no substitute for a strong, well organized, highly motivated Association of Principals. But merely forming one but not personally participating in one, is a fraud.

Second, develop personal contact with the legislator from your district at the state level. How? Send him an invitation to address a commencement, to address a social studies class, to present a citizenship award, to speak on career day. Get him involved in your school programs so that he is aware of and takes an interest in your school district.

Third, through your Association of Principals, pin your legislator down to a formal commitment on policy issues. In fact do that with all candidates during election time, and then hold them to it.

Fourth, do not hesitate to contact your legislator on a piece of pending legislation indicating your personal desire to testify before the committee of which he is a member. Such identification of you as a spokesman can only be of positive benefit to your Association and to your school district.

Fifth, make a financial contribution to your legislator through a Political Action Committee of your Association of Principals. I assure you, he will definitely take notice of you personally and of your Association.

Sixth, if need be, sponsor a legislative candidate of your own. Support him enthusiastically. Should you prevail, this person would have immeasurable political clout; and you would have access to an informed and sympathetic legislator.

Seventh, consider active participation in the local political party of your choice, such as a precinct delegate. Many precincts go begging for a delegate and if you were to fill that position, you would have an immediate pipeline to your legislator.

Eighth, your Association of Principals should consider the employment of a lobbyist, a trained professional in dealing with the State Legislature. Many times, communication with legislators has been described as an "acquired skill", and a good lobbyist has such a skill.

Ninth, for all important pieces of legislation that are coming up for a vote, you should have a prearranged telephone tree which permits you to immediately notify your total membership within a matter of hours about pending legislation requiring support or defeat. This, in turn, would provide the machinery for implementing an immediate telegram or phone call to your legislator from your entire Association.

Tenth, a legislator is affected by your letter and tremendously more affected and influenced by your personal visit. Take a half day off for a personal visit with all legislators within your given district.

Eleventh, consider sponsoring a Legislative Breakfast where your organization, as host, invites local legislators to a yearly breakfast to meet with all of the principals in the district and discuss matters of mutual interest and concern.

III Category three is probably the toughest one to handle and yet is the one that has as much impact on you and your schools as does the Legislature: I refer to the Courts and court decisions.

You will quickly find, if you have not already, that the Courts are atonomous and in some instances arrogant, and not at all influenced by the procedures as I have outlined above with reference to a state legislator.

First of all, the only thing I find that courts are influenced by is the fear of an appeal wherein they themselves may be reversed by a higher court. Therefore, never hesitate to suggest to a Court, through your attorney, that an unfair, irrational decision will be immediately appealed to a higher Court.

Secondly, in most of the states, local judges and appellate judges stand for election. Once elected, very seldom are they ever removed from office by the electorate. Therefore, before election, your state Association of Principals ought to actively screen judicial candidates for purposes of endorsement, support those whose attitude is consistent with the philosophy of educators and, of course, work to defeat those whose fuzzy thinking will wreak havoc upon the schools through their legal opinions, should they ever be elected to the judiciary.

I simply suggest that you carefully scrutinize and screen judges to see if, for instance, they subscribe to balancing student rights with the corresponding assumption of responsibilities by those same students; see if they are willing to recognize the rights of the majority who are mannerly students while protecting the minority who are disruptive. Such judicial philosophy is fair game for inquiry!

Third, an Association of Principals at the state, and for that matter at the national level, ought not always be the defendants in litigation, but frankly, you must take to the offense. If all you do is defend what you have today, for the next decade, and permit a series of new law suits to be filed by such groups as the Childrens' Defense Fund, you will find yourselves in a terribly weakened, if not destroyed, position. You've lost some of your authority through law suits, possibly through an inability to articulate your position. What stops you from regaining some of that authority through law suits where you are the plaintiff?

Finally, Category four, an area that concerns me as a Prosecutor and you as an administrator jointly, is the trend towards violence in the schools and the destruction of an educational atmosphere, to say nothing of the destruction of the physical plant itself.

Vandalism is a crime and not a prank. The fact that we can point to crime in our society and rationalize that it is responsible for the increase in our schools' violence does nothing to correct the problem.

Let's break vandalism, theft and disruption down into three viewpoints:

- From the viewpoint of the community
- From the viewpoint of the school authorities
- From the viewpoint of the students

Let's begin from the viewpoint of the community: If the local community, which comprises basically the school district, is going to have any affect in reestablishing

administrative authority in the schools, respect for that authority, or respect at least for the physical buildings that their tax dollars have paid for, then it is imperative they become involved in an anti-vandalism, anti-theft campaign.

Parent ignorance, or worse yet, parent indifference, is one of the most appalling aspects of this problem.

First, therefore, and a key to any successful program, is community involvement. Community involvement, I feel, would naturally flow from community awareness of the scope of the problem. Rather than cover up actual losses due to vandalism, the school district should broadcast these figures. Let the public know, let the parents know, let the taxpayers know how badly the schools are being ripped off. You will see a quick change in community attitudes.

2. How else do we get the community involved? You and/or the students could visit the homes on the perimeter of the school or in a block radius of the school and personally contact the residents to make them aware of the affects of vandalism. Invite them to the school to see first hand the affects of vandalism: the destroyed wash basins, the broken windows, the damaged property; and then give them a card with a telephone number of the appropriate authority to call, such as the police, if they see anything suspicious on the school grounds during week-ends or evenings.

Some communities actually form a block association to watch and protect the schools.

3. Other ways to involve the community ... Get parents in the neighborhood to drive slowly past their elementary school or secondary school, pull onto school grounds and shine their headlights on the buildings and into the parking lots.

4. In the school, "turn around" the public address system at night so residents in the area can hear any unusual noises or acts of vandalism being committed inside the school through the PA system.

5. Some school districts are actually starting a "trailer watch" where a selected number of residents from the community are permitted to move their mobile homes onto school grounds as an effective, low cost method of cutting vandalism. It's an idea similar to the old "teacherage" where the school actually provided a place for the "school marm" to live. In fact, if you want to update that idea, why not set aside a room in the building someplace for a custodian to live inside the school to add to after-hour security?

Next, let's look at vandalism, theft and disruption from the viewpoint of what the school might directly do.

First, a school district, as I said before, should seriously consider the development of a school-liason officer or officers who are trained police officers to deal with the problem of school vandalism, theft and arson, as well as classroom disruption. These officers, who are designated by the local police department, are highly trained and know well the juvenile court system and/or the adult criminal justice system.

Secondly, one of the most successful solutions to vandalism is keeping the school grounds well lighted: a very simple solution.

Third, a technique of growing acceptance and reported to be quite successful, is the "crime prevention programs" such as Operation Identification where all school property which is subject to theft or damage, is marked with a school identification code number. The implementation of this program should be disseminated broadly to all students as well as being posted

on the school entrances with appropriate decals. Your local police department has all the details on "crime prevention programs."

Fourth, again you're reminded that a Local Ordinance covering vandalism, theft, and disruptive intruders in the schools can be legislated very quickly and very successfully. And prosecution under these local ordinances can usually be conducted within one month.

Most criminal justice experts agree swift prosecution and certainty of punishment is an effective deterrent.

Five, one idea to cut vandalism is a program called the "Vandalism Depletion Allowance". A fund is set up and works like this: The school receives a special budget of one dollar per student, and the money is kept in a special fund until the end of a reporting period. The costs for acts of vandalism is subtracted from this special fund, and the remaining balance is used for students on school projects as determined by the students.

Sixth, in our local newspaper last Sunday, one of the school districts in Southeastern Michigan was interviewed about a program that was successful in cutting vandalism costs by over 70%.

The Warren, Michigan School District attributed the success of their program to a "secret witness reward" idea. Anybody could turn in a vandal anonymously and collect a reward for such information. Students and citizens alike participated in the program with an obviously successful first year.

Seventh, certainly the standard measures to prevent vandalism should not be overlooked and bears repetition here:

Chain link fences which close off open court areas not visible from the street should be installed.

School electronic detection systems should be considered;

Money should be removed from the school overnight and such a rule should be well publicized in advance;

Frequently broken glass windows should be replaced by lexon or plexiglass;

A strict "key control system" that controls the number of keys to a school should be implemented;

Marking of all removable school equipment should be undertaken;

Replacement of broken and obsolete door hardware; in the future, the elimination of low roof designs that allows easy access to the roofs of schools.

Remember that false alarms can mean a professional burglar is testing you and your security personnel.

Eighth, to help control disruption in the hallways, in the lavatories, in the smoking area or on the school buses, my recommendation is a very simple one: community involvement

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by parents, parent teacher groups and parent teacher councils is certainly the best control.

Let the parents see first hand what you as administrators must contend with during the change of classes, let them see what the non-smoking student has to go through to use a lavatory, if he dares use one at all, let them ride the bus. But get them involved!

Ninth, send home to the parents a true report, not only of the acts of vandalism, but also the number of assaults on fellow students or teachers during a given reporting period. I firmly feel that awareness by the parents in your district will be quickly followed by their involvement - by their concerned involvement.

Tenth, parents who do not get involved in "vandalism deterrence" and whose children are the main culprits ought to be aggressively pursued in civil court through the "parental responsibility laws".

Eleventh, don't be afraid to be innovative. If you're plagued with bomb threats, for instance, set make-up classes on Saturdays.

Much of what I've said in the last two sections to avoid vandalism, theft, arson and disruption, could well be avoided by a highly motivated student body. If it makes sense to get the parents involved, it seems it would seem to make even better sense to get the students involved. In fact, I would venture to say, without student involvement in a program of anti-theft, anti-violence, your efforts to control such matters would be doomed to failure.

The question then for this final viewpoint is how do you get the students involved?

First, I would recommend a massive program of indoctrination to brand on the conscience of the student body that student rights do not exist in a vacuum but rather co-exist

in every instance with the assumption of student responsibility
(and the primary responsibility, in my opinion, is the
awareness of and respect for the rights of others.)

Secondly, try encouraging student involvement in a
meaningful program student government where they have more
of a role than to organize an occasional social function.
Let them monitor the buses for instance, let them make decisions
on what to do with the disruptive student. Let them develop
programs themselves to open the lavatories to all students.

Third, students, along with their parents, could be
invited into school each Fall before school opens for a
clean up, paint up, fix up day. Let them have an investment
in the appearance of their school.

Fourth, schools should develop "school pride and
beautification projects", even give limited prizes to
encourage student participation.

Five, encourage students to paint murals in the halls or study halls. It's a popular step that gives a student a sense of pride as well as a sense of responsibility in the appearance of his school.

Six, let students set up patrols to drive the parking lots to avoid theft of their tape decks and radios from their own cars.

Seven, and instead of suspension or expulsion for acts of vandalism, consider the implementation of a "work-off" program so they can have the option to work off the damage they have done.

Eight, if all else fails, suspend sports for one season so that the cost savings can be diverted into costs for school repair. One season without football and you'll find that team joining your team.

Certainly this list of ideas and programs I've discussed with you is not all inclusive. I am sure there are many programs that you have in your local school districts which are working very well and hopefully you will share those with other school districts who may not be sharing a similar success.

But the message I have brought to you today is really an attempt to do three things:

1. Detail how we got where we are in education today as far as court decisions are concerned;
2. To expose some of the ramifications that I feel have resulted from those decisions; and
3. To suggest constructive alternatives to deal with those problems so that a proper and healthy educational climate where children can truly learn can once again be restored in this great country of ours.